



May 2012

### King County Prosecuting Attorney's Office Policy on Recommending Affirmative Sentence Conditions

As documented in the accompanying white paper, the King County Prosecuting Attorney's Office (KCPAO) is changing its use of affirmative conditions as a part of plea agreements in routine cases. Although the Sentencing Reform Act (SRA) encourages the wide use of affirmative conditions, community supervision to monitor compliance is simply not available in most cases. As a result, courts are routinely imposing sentencing conditions, including treatment, that are unmonitored and unenforced.

If a DPA is considering the use of affirmatives conditions in a case, either in lieu of or in addition to a standard range sentence, three fundamental questions need to be addressed:

1. Is there reason to believe this offender is well-suited to the proposed treatment? If not, we are simply guessing that an offender's risk to reoffend can be reduced through treatment. Where possible, we should avoid reliance on our own judgment regarding the suitability of treatment for an offender. Rather, we should seek to rely on competent professional assessments (typically provided by defense counsel).
2. Is the proposed program evidence-based and proven effective in addressing the issue that we seek to treat? Increasingly, it is clear that some programs are much more effective than others in reducing recidivism and achieving positive outcomes for the offenders and the community. We should not direct scarce resources at programs that do not meet basic benchmarks of effectiveness. Examples of effective programs (per WSIPP) include: DOSA, Drug Court, Mental Health Court; cognitive behavioral therapy, intensive drug treatment and supervision;
3. Assuming that an eligible offender is being placed into the right program, we must ask three questions. How will an offender's performance be monitored? How will compliance be monitored? How will failure to comply be proven and punished? In general, if it is proven that an offender scores high enough on the risk assessment tool to authorize Department of Corrections supervision, then imposing affirmative conditions may be appropriate. Without some assurance to this effect, the KCPAO will not request nor support the imposition of an affirmative condition in routine cases. The routine use of "bench supervision" will not be requested.